

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6635

BETTY J. MURPHY,

Plaintiff - Appellant,

versus

INMATE SYSTEMS; D. S. CALLISON; KATHLEEN HAWK
SAWYER, Federal Bureau of Prison Agency for
Department of Justice; UNIT MANAGER LUCZYCKI;
MAIL OFFICER HUMPHRIES; NURSE ELMORE;
O'SULLIVAN, Teacher; DAVID MORROW,

Defendants - Appellees.

Appeal from the United States District Court for the Southern
District of West Virginia, at Bluefield. David A. Faber, Chief
District Judge. (CA-03-170-1)

Submitted: July 29, 2004

Decided: August 5, 2004

Before LUTTIG, MICHAEL, and DUNCAN, Circuit Judges.

Affirmed in part, dismissed in part by unpublished per curiam
opinion.

Betty J. Murphy, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Betty J. Murphy appeals from the district court's order denying her motions for a protective order and to compel discovery in her Bivens* action, which is still pending in the district court. We affirm in part and dismiss in part.

The magistrate judge construed Murphy's motion for a protective order as a motion for a preliminary injunction and recommended denying the motion. The magistrate judge advised Murphy that failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Murphy failed to object to the magistrate judge's recommendation concerning the motion for a preliminary injunction.

The timely filing of specific objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned that failure to object will waive appellate review. See Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); see also Thomas v. Arn, 474 U.S. 140 (1985). Murphy has waived appellate review of this portion of the district court's order by failing to file objections after receiving proper notice. Accordingly, we

*Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971).

affirm the district court's denial of Murphy's motion for a preliminary injunction.

To the extent that Murphy appeals from the denial of her motion to compel discovery, we dismiss the appeal for lack of jurisdiction. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2000), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2000); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). The district court's denial of the discovery motion is neither a final order nor an appealable interlocutory or collateral order. Accordingly, we dismiss this portion of the appeal for lack of jurisdiction.

Additionally, we deny Murphy's motions to remand the case and for a protective order. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED IN PART;
DISMISSED IN PART